

Hon. Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
FOR THE  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

VIRGINIA BURDETTE, *in her capacity as*  
*Chapter 7 Trustee*, et al.

Plaintiffs,

vs.

STEADFAST COMMONS II, LLC, *a*  
*Delaware limited liability company*, et al.,

Defendants.

NO. 2:11-980-RSM

ORDER GRANTING  
MOTION TO AMEND

This matter comes before the Court upon Plaintiffs' motion to amend complaint (Dkt. No. 28) and Defendants' motion to strike Plaintiffs' motion for attorneys' fees (Dkt. No. 36).

In their motion, Plaintiffs seek to add several entities as defendants to this lawsuit.

Defendants respond that all but two of the entities have no connection to the lawsuit.

Defendants, however, agree that two entities – Steadfast Everett Mall, LLC and Steadfast

1 Commercial Management Company, Inc. – should be joined as defendants. Thus, through  
2 the briefing of this motion, the parties agree to join Steadfast Everett Mall, LLC and  
3 Steadfast Commercial Management Company, Inc. as defendants. Because a court should  
4 freely and liberally grant leave to amend a pleading when justice requires, Fed. R. Civ. P. 15,  
5 and because the parties agree to amend the motion to join the two additional defendants, the  
6 Court hereby **GRANTS** Plaintiffs’ motion to amend.

7         Plaintiffs also make two additional requests in their reply brief. *See* Dkt. No. 34.  
8 First, Plaintiffs indicate that they would like to dismiss one of the defendants from this  
9 lawsuit: Steadfast Commons II, LLC. Indeed, Defendants have indicated that Steadfast  
10 Commons II, LLC has no connection to this lawsuit. *See* Dkt. No. 30. However, as a  
11 condition of such an amendment, Plaintiffs request that the court order Defendants to be  
12 bound by certain sworn statements made during the course of discovery. Second, Plaintiffs  
13 request attorneys fees related to the cost of bringing the motion to amend, which they argue  
14 resulted from Defendants’ failure to timely and accurately respond to discovery requests.  
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16         “A request for a court order must be made by motion.” Fed. R. Civ. P. 7(b).  
17 Plaintiffs improperly seek relief by way of a reply brief to a motion to amend, to which  
18 Defendants do not have an opportunity to respond. Accordingly, Plaintiffs’ request for a  
19 court order binding Defendants to certain statements and Plaintiffs’ request for attorneys’  
20 fees are DENIED.

21         Therefore, having considered the motions, responses and replies thereto, all  
22 declarations and attached exhibits, and the remainder of the record, the Court hereby finds  
23 and **ORDERS**:  
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1 (1) Plaintiffs' motion to amend complaint (Dkt. No. 28) is GRANTED.

2 Plaintiffs may join Steadfast Everett Mall, LLC and Steadfast Commercial  
3 Management Company, Inc. as defendants and amend the complaint as  
4 proposed in Plaintiffs' motion. Plaintiffs may also dismiss Steadfast Commons  
5 II, LLC as a party to this action, but are not required to do so. The amended  
6 complaint should be filed within fifteen days of the date of this order.

7 (2) Defendants' motion to strike Plaintiff's motion for attorneys' fees (Dkt.  
8 No. 36) is STRICKEN as moot.

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10 DATED this 22<sup>nd</sup> day of February, 2012.  
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15 RICARDO S. MARTINEZ  
16 UNITED STATES DISTRICT JUDGE  
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